

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RAYMOND MASCARENAS,

Case No. 3:14-cv-00054-MMD-VPC

Petitioner,

ORDER

v.

GREG SMITH, *et al.*,

Respondents.

In this habeas corpus action, on June 15, 2015, the Court ruled on respondents' motion to dismiss; the Court found one claim in the habeas petition — Ground 3 — to be unexhausted in state court. See Order entered June 15, 2015 (dkt. no. 28). The Court ordered the petitioner, Raymond Mascarenas, to make an election to do one of the following: (1) file a declaration stating that he wishes to abandon Ground 3 and proceed with this action with respect to his remaining claims; (2) file a motion for stay, and request a stay of this action while he exhausts Ground 3 in state court; or (3) file a declaration informing the Court that he wishes to voluntarily dismiss this action, in its entirety, without prejudice. See *id.*

On June 29, 2015, Mascarenas filed a document entitled "Petitioner's Declaration Abandoning Ground 3 of Habeas Corpus and Objection to Court Order for Abandonment." (Dkt. no. 29.)

In his June 29 filing, Mascarenas appears to request reconsideration regarding the Court's determination that Ground 3 is unexhausted. The Court will deny the request for reconsideration.

1 In the June 29, filing, Mascarenas also expresses his intention to abandon
2 Ground 3, if the Court does not reconsider its ruling that the claim in Ground 3 is
3 unexhausted. The Court will accept Mascarenas' abandonment of Ground 3, and will,
4 accordingly, order Ground 3 dismissed without prejudice.

5 The Court will set a schedule for the parties' briefing of the remaining claims in
6 Mascarenas' habeas petition.

7 It is therefore ordered that the motion for reconsideration in "Petitioner's
8 Declaration Abandoning Ground 3 of Habeas Corpus and Objection to Court Order for
9 Abandonment" (dkt. no. 29) is denied.

10 It is further ordered that petitioner's abandonment of Ground 3 of his habeas
11 petition, in "Petitioner's Declaration Abandoning Ground 3 of Habeas Corpus and
12 Objection to Court Order for Abandonment" (dkt. no. 29) is accepted by the Court.
13 Ground 3 of petitioner's habeas corpus petition is dismissed without prejudice.

14 It is further ordered that respondents shall, within sixty (60) days after the entry of
15 this order, file an answer, responding to the remaining claims in the petition for writ of
16 habeas corpus. Thereafter, petitioner shall have sixty (60) days to file a reply.

17 DATED THIS 1st day of July 2015.

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21 MIRANDA M. DU
22 UNITED STATES DISTRICT JUDGE
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